

01328

Joseph Notopoulos Proc. II

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

FILE: B-187444

DATE: November 23, 1976

MATTER OF: Catalytic, Incorporated

**DIGEST:**

1. Prior decision, holding that protest was untimely filed, is affirmed. Fact that late filing is attributable in part to protester's initial unawareness of procedures by which to file protest will not excuse untimely filing since GAO Bid Protest Procedures were published in Federal Register and protester must be regarded as on constructive notice thereof.
2. Objections to agency's technical evaluation of a particular proposal do not constitute significant procurement issue of widespread interest that would permit consideration on the merits, pursuant to 4 CFR 20.2(c), of an otherwise untimely protest.

Catalytic, Incorporated has requested reconsideration of our decision of October 20, 1976, B-187444, in which we declined to consider its protest on the merits because it was untimely filed.

By way of background, the protest alleged various improprieties by the Environmental Protection Agency (EPA) in the evaluation of Catalytic's proposal under request for proposals (RFP) No. DH-75-A175. After Catalytic learned that its proposal had not been selected by EPA, it requested a debriefing which was conducted on August 11, 1976. Catalytic then filed a protest with the EPA on September 14, 1976, and with this Office on September 16, 1976. We regarded the protest as untimely because our Bid Protest Procedures require that protests be filed not more than 10 days after the protester learns of the basis for protest, see 4 CFR 20.2(b)(2) (1976), and the September 16 filing date was more than 10 days subsequent to the debriefing. Accordingly, we declined to consider the protest on the merits.

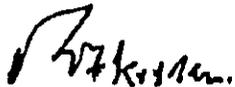
In requesting reconsideration of our decision, Catalytic advises that following the EPA debriefing of August 11, 1976, it requested, by letter of August 24, 1976, advice from EPA as to the procedures by which a protest might be filed with that agency, but was purportedly advised by an EPA response dated August 30, 1976, and received September 1, 1976, that EPA had no internal protest mechanism, and was instead referred to our Bid Protest Procedures. The protester argues that since "it was not aware of the EPA's position with respect to the potential protest until September 1, 1976," its protest was timely filed.

In the alternative, Catalytic contends that even should this Office conclude from the foregoing circumstances that the protest is untimely, we should nevertheless consider the matter under 4 C.F.R. 20.2(c) which provides that we may consider an untimely protest whenever we determine that it raises a significant procurement issue. In the instant case, Catalytic contends, as alleged in its initial protest, that EPA failed to properly apply the evaluation criteria of the RFP to the evaluation of its proposal and therefore departed from its own procurement procedures.

With regard to Catalytic's first point, we have held that a protester's lack of actual knowledge regarding this Office or its standards for considering bid protests is not sufficient justification for our considering an otherwise untimely protest. Lance Investigation Service, Inc., B-180481, April 5, 1974, 74-1 CPD 177. Our current Bid Protest Procedures were published in their entirety in volume 40, No. 80 of the Federal Register at pages 17979 and 17980 (April 24, 1975). Under the law, that publication constitutes constructive notice to the protester of those provisions. See Lance Investigation Service, Incorporated, supra; Winston Bros. Company v. United States, 458 F.2d. 49, 53 (Ct. Cl. 1972). Therefore, the fact that Catalytic was not advised by EPA of our Bid Protest Procedures until September 1, 1976 does not alter the fact that Catalytic knew of the grounds for protest as of the debriefing date. Accordingly, we remain of the view that the protest was untimely filed.

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With regard to Catalytic's request that we consider the protest as raising a significant procurement issue, we have held that the significant issue exception to the timely filing requirement must be exercised sparingly if our timeliness standards are not to become meaningless. COMTEN, B-185394, February 24, 1976, 76-1 CPD 130, affirmed B-185394, May 18, 1976, 76-1 CPD 330. Thus, we will not regard an issue as significant unless it is of widespread interest or goes to "the heart of the competitive procurement process." Williamette - Western Corporation, et al., 54 Comp. Gen. 375, 376 (1974), 74-2 CPD 259; 52 Comp. Gen. 20 (1972). We do not believe the objections raised here, which essentially concern the technical evaluation of a proposal for a particular procurement, meet this standard. See Dumont Oscilloscope Laboratories, Inc., B-186379, June 22, 1976, 76-1 CPD 398; Fairchild Industries, Inc.-request for reconsideration, B-184655, October 30, 1975, 75-2 CPD 264; GTE Sylvania, Inc., B-186982, September 7, 1976, 76-2 CPD 225. Accordingly, our prior decision is affirmed.

  
Deputy Comptroller General  
of the United States